

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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DEAN BENTER,

Civil No. 07-2328 (JMR/FLN)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

DOUG ELY, MARK P. SCHILTZ, and  
Correctional Officer (Jailer) HEISER,

Defendants.

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Plaintiff commenced this action on May 17, 2007, by filing a civil rights complaint, and an application seeking leave to proceed in forma pauperis ("IFP"). (Docket Nos. 1 and 2.) The Court previously examined those submissions and determined that (a) Plaintiff's pleading failed to state an actionable claim, and (b) Plaintiff's IFP application was incomplete. The Court therefore entered an order, dated May 23, 2007, (Docket No. 3), which denied Plaintiff's IFP application without prejudice. The order granted Plaintiff leave to file an amended IFP application, (or else the full \$350 filing fee), as well as an amended complaint. The order also expressly advised Plaintiff that if he did not file an amended Complaint and an amended IFP application, (or the full \$350 filing fee), within thirty (30) days, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

The deadline for complying with the Court's prior order has now passed, and Plaintiff has not satisfied the requirements of that order. In fact, Plaintiff has not communicated with the Court at all since he commenced this action more than six weeks ago. Therefore, it is now recommended, in accordance with the Court's prior order, that Plaintiff be deemed to

have abandoned this action, and that the action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”).

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: July 3, 2007

s/ Franklin L. Noel  
FRANKLIN L. NOEL  
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **July 23, 2007**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party’s brief within ten days after service thereof. All briefs filed under the rules shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.